

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>JOSE MACWILLIAMS,</b>	:	<b>CIVIL ACTION</b>
<b>Petitioner,</b>	:	
	:	
<b>v.</b>	:	<b>NO. 10-5519</b>
	:	
<b>MORRIS LAMAS, THE ATTORNEY</b>	:	
<b>GENERAL OF PENNSYLVANIA, and,</b>	:	
<b>THE DISTRICT ATTORNEY OF THE</b>	:	
<b>COUNTY OF LEHIGH,</b>	:	
<b>Respondents.</b>	:	

**ORDER**

**AND NOW**, this 6th day of April, 2011, upon consideration of the Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2254 filed by petitioner, Joseph MacWilliams (Document No. 1, filed October 18, 2010), and after review of the Report and Recommendation of Chief United States Magistrate Judge Thomas J. Rueter dated March 9, 2011 (Document No. 15), there being no objection, and good cause appearing, **IT IS ORDERED** as follows:

1. The Report and Recommendation of Chief United States Magistrate Thomas J. Rueter dated March 9, 2011, is **APPROVED** and **ADOPTED**;
2. The request of petitioner, Jose MacWilliams, to withdraw his Petition for Writ of Habeas Corpus is **GRANTED**;
3. The Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2254 filed by Jose MacWilliams is **DISMISSED WITHOUT PREJUDICE** on the ground that petitioner filed a “mixed petition” which contained both exhausted and unexhausted claims, and now wants to proceed with his petition for relief under the Pennsylvania Post-Conviction Relief Act, 42 Pa. Cons. Stat. Ann. §§ 9541 *et seq.*, presently pending in state court; and,

4. A certificate of appealability **WILL NOT ISSUE** for any of petitioner's claims because reasonable jurists would not debate the correctness of this Court's procedural ruling. 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

**BY THE COURT:**

/s/ Jan E. DuBois  
**JAN E. DUBOIS, J.**